Common Fisheries Policy: behaviours seriously infringing the rules

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In accordance with Council Regulation (EC) n° 1447/1999, this communication, based on reports from the Member States, concerns the cases of behaviours which seriously infringed the rules of the CFP and for which a file was opened in 2006.

This is the seventh Communication on this matter.

The report states that the total number of cases reported by Member States is **10 362** spread over the whole list of breaches included in the list of Council Regulation (EC) N° 1447/1999. The number is less than 1 % lower than in 2005 which has to be read in conjunction with the decrease in the overall number of active EU vessels with 10 %: therefore there is no real improvement in level of compliance with CFP rules. In absolute terms, Member States have detected only 81 breaches fewer than in 2005. In order to facilitate the comparison and observing the trend, it should be noted that the number of serious infringements detected in previous years was 7 298 in 2000, 8 139 in 2001, 6 756 in 2002, 9 502 in 2003; 9 660 in 2004 and 10 443 in 2005.

The main points can be summarized as follows:

- the procedures (of administrative or of a criminal nature) launched for sanctioning infringements of the CFP rules are generally lengthy, varying in different Member States from 1 to 2 months up to 1-2 years. 8 to 12/18 months seems to be the time required on average until termination of the whole procedure. Criminal procedures are the longest ones (mainly criminal procedures are applied in Finland and Sweden for instance) in some Member States they go for up to 10 years with the appeals stages. Administrative procedures are shorter, taking around 1 to 2 months in general;
- notably many procedures for breaches detected the previous year are still pending;
- in general, the species most affected by serious infringements were those species for which recovery plans or restrictive national measures are in place and those with high commercial value i.e. demersal species, cod, sole, salmon, sardine, and anchovy;
- it appears that most infringements are detected by Member States in ICES zones such as the Eastern Mediterranean zone, the North Sea, the Baltic Sea, Skagerrak and Kattegatt areas, Andalucía and Galicia, ICES 30 zone, Northern Greece- FAO zones 34.3.1 and 34.2.2;
- the majority of breaches were discovered during inspections at sea.

In conclusion, the Commission notes the **significant disparities of the sanctions** imposed by the different Member States for the same type of serious infringements and underlines the fact that the overall **penalties imposed are not a sufficient deterrent**, as they provide no real incentive to comply. The result is the inability of the inspection systems to detect and to prevent infringements. The Commission notes that the national systems are divergent due to the lack of general standards for inspections that therefore do not ensure adequate inspection pressure nor optimise inspection activities.

Two main conclusions can be drawn in this regard: first, there still are serious deficiencies in the control of and in the enforcement of sanctions against serious infringements, compromising the effectiveness of the Common Fisheries Policy. Secondly, there is a lack of uniformity resulting in inequitable implementation at EC level.

The Commission intends to **launch an ambitious reform of the EU policy for fisheries control**. The initiative should address in the most comprehensive, global and integrated way all the shortcomings identified. In the context of the Control reform it will be necessary to introduce harmonised administrative sanctions at EC level, to introduce a clearer definition of serious infringements and to introduce a clearer definition of enforcement measures.

The reform will aim at guaranteeing equality and fair competition, thus avoiding the migration of offenders to Member States where infringements are punished less severely, as well as at establishing a culture of compliance among operators. Furthermore it will develop a new harmonised approach to inspections and control, strengthen the effectiveness of cross checking systems of data, enhance the capacity of the Commission to ensure compliance with EC rules of CFP, encourage the use of modern technologies and finally foster a culture of compliance. The adoption of this Commission proposal is envisaged for October 2008.

With regard to the **Member States**, the Commission emphasises that they will remain the primary responsible for ensuring the implementation of CFP rules after the Control Reform and once again calls upon them to give the appropriate consideration to the obligation to ensure compliance with CFP rules with all possible means. It urges them, in particular, to **increase the cooperation** between them in the detection and follow up of infringements.

The Commission states that without a computerized database comprising a set of information relating, for example, to the law breaker, the vessel or the enterprise, the legal provisions, the species and fisheries areas, the economic context, the administrative costs, the main and ancillary sanction inflicted, it will be impossible to properly assess behaviours, administrative performance and efficacy of legislation in force.

The lack of **cross checking of data** is also an urgent problem needed to be addressed. In this regard an example of good practice already in place in several Member States can be considered- there have been systems set up for the automatic treatment of inspection reports, giving very good results. The advantages of these systems include the unification of procedures, centralization of data, user- friendliness saving training costs, multilingual support for all formulas, flexibility in response to changing regulations and tighter security through form-based identification.

The Commission has already suggested a format to be used by national administrations to that end. It is ready to assist the Member States, also financially through existing budget lines, to introduce new tools. Therefore, while a comprehensive reform of the control framework is being prepared, the Commission urges Member States to cooperate and to apply their legislation and administrative organisation accordingly.